

109TH CONGRESS
1ST SESSION

H. R. 4534

To amend the Internal Revenue Code of 1986 to reform the charitable contribution deduction rules on contributions of certain easements on buildings in registered historic districts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2005

Mr. ENGLISH of Pennsylvania introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to reform the charitable contribution deduction rules on contributions of certain easements on buildings in registered historic districts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. REFORM OF CHARITABLE CONTRIBUTIONS OF**
4 **CERTAIN EASEMENTS ON BUILDINGS IN REG-**
5 **ISTERED HISTORIC DISTRICTS.**

6 (a) SPECIAL RULES WITH RESPECT TO BUILDINGS
7 IN REGISTERED HISTORIC DISTRICTS.—Paragraph (4) of
8 section 170(h) of the Internal Revenue Code of 1986 (re-

1 lating to definition of conservation purpose) is amended
2 by redesignating subparagraph (B) as subparagraph (C)
3 and by inserting after subparagraph (A) the following new
4 subparagraph:

5 “(B) SPECIAL RULES WITH RESPECT TO
6 BUILDINGS IN REGISTERED HISTORIC DIS-
7 TRICTS.—In the case of any contribution of a
8 qualified real property interest which is a re-
9 striction with respect to the exterior of a build-
10 ing described in subparagraph (C)(ii), such con-
11 tribution shall not be considered to be exclu-
12 sively for conservation purposes unless—

13 “(i) such interest—

14 “(I) includes a restriction which
15 preserves the entire exterior of the
16 building (including the front, sides,
17 rear, and height of the building), and

18 “(II) prohibits any change in the
19 exterior of the building which is incon-
20 sistent with the historical character of
21 such exterior,

22 “(ii) the donor and donee enter into a
23 written agreement certifying, under pen-
24 alty of perjury, that the donee—

1 “(I) is a qualified organization
2 (as defined in paragraph (3)) with a
3 purpose of environmental protection,
4 land conservation, open space preservation,
5 or historic preservation, and

6 “(II) has the resources to manage and enforce the restriction and a
7 commitment to do so, and
8

9 “(iii) in the case of any contribution
10 made in a taxable year beginning after the
11 date of the enactment of this subparagraph,
12 the taxpayer includes with the taxpayer’s
13 return for the taxable year of the
14 contribution—

15 “(I) a qualified appraisal (within
16 the meaning of subsection (f)(11)(E))
17 of the qualified property interest,

18 “(II) photographs of the entire
19 exterior of the building, and

20 “(III) a description of all restrictions on the development of the building.”.

23 (b) FILING FEE FOR CERTAIN CONTRIBUTIONS.—
24 Subsection (f) of section 170 of such Code (relating to
25 disallowance of deduction in certain cases and special

1 rules) is amended by inserting at the end the following
2 new paragraph:

3 “(13) CONTRIBUTIONS OF CERTAIN INTERESTS
4 IN BUILDINGS LOCATED IN REGISTERED HISTORIC
5 DISTRICTS.—

6 “(A) IN GENERAL.—No deduction shall be
7 allowed with respect to any contribution de-
8 scribed in subparagraph (B) unless the tax-
9 payer includes with the return for the taxable
10 year of the contribution a \$500 filing fee.

11 “(B) CONTRIBUTION DESCRIBED.—A con-
12 tribution is described in this subparagraph if
13 such contribution is a qualified conservation
14 contribution (as defined in subsection (h))
15 which is a restriction with respect to the exte-
16 rior of a building described in subsection
17 (h)(4)(C)(ii) and for which a deduction is
18 claimed in excess of the greater of—

19 “(i) 3 percent of the fair market value
20 of the building (determined immediately
21 before such contribution), or

22 “(ii) \$10,000.

23 “(C) DEDICATION OF FEE.—Any fee col-
24 lected under this paragraph shall be used for

1 the enforcement of the provisions of subsection
 2 (h).”.

3 (c) EFFECTIVE DATE.—

4 (1) SPECIAL RULES FOR BUILDINGS IN REG-
 5 ISTERED HISTORIC DISTRICTS.—The amendments
 6 made by subsection (a) shall apply to contributions
 7 made after the date of the enactment of this Act.

8 (2) FILING FEE.—The amendment made by
 9 subsection (b) shall apply to contributions made 180
 10 days after the date of the enactment of this Act.

11 **SEC. 2. PROVISIONS RELATING TO SUBSTANTIAL AND**
 12 **GROSS OVERSTATEMENTS OF VALUATIONS**
 13 **OF CHARITABLE DEDUCTION PROPERTY.**

14 (a) SUBSTANTIAL AND GROSS OVERSTATEMENTS OF
 15 VALUATIONS OF CHARITABLE DEDUCTION PROPERTY.—

16 (1) IN GENERAL.—Section 6662 of the Internal
 17 Revenue Code of 1986 (relating to imposition of ac-
 18 curacy-related penalties) is amended by adding at
 19 the end the following new subsection:

20 “(i) SPECIAL RULES FOR CHARITABLE DEDUCTION
 21 PROPERTY.—In the case of charitable deduction property
 22 (as defined in section 6664(c)(3)(A))—

23 “(1) the determination under subsection
 24 (e)(1)(A) as to whether there is a substantial valu-
 25 ation misstatement under chapter 1 with respect to

the value of the property shall be made by substituting ‘150 percent’ for ‘200 percent’, and

“(2) the determination under subsection (h)(2)(A)(i) as to whether there is a gross valuation misstatement with respect to the value of the property shall be made by substituting ‘200 percent’ for ‘400 percent’ and by substituting ‘150 percent’ for ‘200 percent’ in applying subsection (e)(1)(A) for purposes of such determination.”.

(2) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) of such Code (relating to reasonable cause exception for underpayments) is amended by striking “paragraph (1) shall not apply unless” and inserting “paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if”.

(b) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) of such Code is amended to read as follows:

“(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

“(i) QUALIFIED APPRAISAL.—The term ‘qualified appraisal’ means, with re-

1 spect to any property, an appraisal of such
2 property which—

3 “(I) is treated for purposes of
4 this paragraph as a qualified ap-
5 praisal under regulations or other
6 guidance prescribed by the Secretary,
7 and

8 “(II) is conducted by a qualified
9 appraiser in accordance with generally
10 accepted appraisal standards and any
11 regulations or other guidance pre-
12 scribed under subclause (I).

13 “(ii) QUALIFIED APPRAISER.—Except
14 as provided in clause (iii), the term ‘quali-
15 fied appraiser’ means an individual who—

16 “(I) has earned an appraisal des-
17 ignation from a recognized profes-
18 sional appraiser organization or has
19 otherwise met minimum education
20 and experience requirements set forth
21 in regulations prescribed by the Sec-
22 retary,

23 “(II) regularly performs apprais-
24 als for which the individual receives
25 compensation, and

1 “(III) meets such other require-
2 ments as may be prescribed by the
3 Secretary in regulations or other guid-
4 ance.

5 “(iii) SPECIFIC APPRAISALS.—An in-
6 dividual shall not be treated as a qualified
7 appraiser with respect to any specific ap-
8 praisal unless—

9 “(I) the individual demonstrates
10 verifiable education and experience in
11 valuing the type of property subject to
12 the appraisal, and

13 “(II) the individual has not been
14 prohibited from practicing before the
15 Internal Revenue Service by the Sec-
16 retary under section 330(c) of title
17 31, United States Code, at any time
18 during the 3-year period ending on
19 the date of the appraisal.”.

20 (2) REASONABLE CAUSE EXCEPTION.—Sub-
21 paragraphs (B) and (C) of section 6664(c)(3) of
22 such Code are amended to read as follows:

23 “(B) QUALIFIED APPRAISAL.—The term
24 ‘qualified appraisal’ has the meaning given such
25 term by section 170(f)(11)(E)(i).

1 “(C) QUALIFIED APPRAISER.—The term
2 ‘qualified appraiser’ has the meaning given such
3 term by section 170(f)(11)(E)(ii).”.

4 (c) EFFECTIVE DATES.—

5 (1) MISSTATEMENT PENALTIES.—The amend-
6 ments made by subsection (a) shall apply to returns
7 filed after the date of the enactment of this Act.

8 (2) APPRAISER PROVISIONS.—The amendments
9 made by subsection (b) shall apply to appraisals pre-
10 pared with respect to returns or submissions filed
11 after the date of the enactment of this Act.

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